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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,584	05/23/2001	Jose Manuel Gallego	1-15397	3577

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09/09/2003

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EXAMINER

MEEKS, TIMOTHY HOWARD

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/856,584

Applicant(s)

GALLEG0, JOSE MANUEL

Examiner

Timothy H. Meeks

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8-21 and 24-36 is/are rejected.
- 7) ☒ Claim(s) 3-7,22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Application Status***

The amendment filed on 31 July 2003 in response to the Office Action mailed on 29 January 2003 has been fully considered. In the amendment, applicants have amended the specification to provide headings and claims 1, 12, 21 31, and 34, and canceled claim 2. Claim 37 was previously canceled. Claims 1 and 3-36 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 8-16 are rejected under 35 U.S.C. 103(a) as being Guiselin et al.

Guiselin discloses deposition of a stack of layers on a glass substrate to form a heat-treatable low-emissivity coated glass that comprises depositing an interlayer such as silica, a first dielectric layer such as tin oxide, a reflecting metal layer, such as silver and a second dielectric layer, such as tin oxide (col. 3, lines 40-65, col. 4, lines 55-65 col. 5, lines 9-65).

Guiselin does not explicitly disclose that the tin oxide layer deposited below the reflecting layer is deposited by pyrolytic deposition and that the metal layer is deposited by vacuum deposition. However, because Guiselin discloses at col. 6, lines 10-35 that when glass substrates are used, it is advantageous to deposit oxide or nitride layers by a pyrolytic process such as when the glass is on the float line in its manufacturing process, and then to deposit the remaining layers by a vacuum deposition process such as sputtering after the glass is cut, it

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would have been obvious to deposit the silica and tin oxide layers on the float line by a pyrolytic deposition process and then deposit the metal and second tin oxide layers by sputtering after the glass is cut as this is disclosed as advantageous and would have the clear advantage of decreased process time as two of the layers would be provided during the glass manufacturing process.

Please note that the disclosure of a laminated glazing inherently meets the limitation of an interlayer between the glazing panes as an adhesive layer is necessary to laminate the panes.

With respect to claims 8 and 9, Guiselin is silent as to the temperature for deposition of the tin oxide layer. If applicant can establish a showing of criticality in the claimed temperature, the rejection will be withdrawn. See *Ex parte Khusid*, 174 USPQ 59 ("Where the principal difference between the claimed process and that taught by the reference is a temperature difference, it is incumbent upon applicant to establish criticality of that difference").

Claims 17-19 and 31-33 are rejected under 35 U.S.C. 103(a) as being Guiselin et al in view of Macquart et al.

Guiselin does not disclose heat treating the glass as claimed. However, because Macquart discloses at col. 1, lines 45-60 and col. 8, lines 40-65 that heat treating glass having coating layers similar to those of Guiselin at temperatures over 620 °C provides glass which is curved or functions as safety glass, it would have been obvious to have so treated the glass of Guiselin to provide these products.

***Claim Rejections - 35 USC § 102/103***

Claims 20, 21, 24-30, and 34-36 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Guiselin.

The product made by the process of Guiselin contains all of the layers with the properties claimed by applicants as set forth above and therefore, the product is deemed to anticipate applicants' claimed product.

Alternatively, once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292 (Fed. Cir. 1983). Therefore, any difference imparted by the process of making the claimed product from the prior art is prima facie obvious absent evidence establishing an unobvious difference between the claimed product and the prior art product.

***Allowable Subject Matter***

Claims 3-7, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1 and 3-36 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

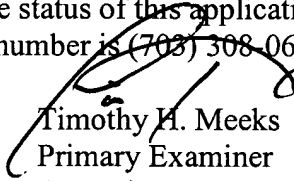
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy H. Meeks whose telephone number is (703) 308-3816. The examiner can normally be reached on Mon., Tues., Thurs.(6-6:30), Fri.(6:30-10:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Timothy H. Meeks  
Primary Examiner  
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fin  
September 8, 2003